



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: )

Natalie Bryant )

Application No: 09/935,104 )

Filed: August 22, 2001 )

For: GAMING MACHINE WITH MULTI )  
SCATTER GAME )

Examiner: Milap Shah

Art Unit: 3714

Mail Stop Appeal Brief – Patents  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

APPEAL BRIEF  
IN SUPPORT OF APPELLANT'S APPEAL  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant hereby submits this Brief in triplicate in support of her appeal from a final decision by the Examiner, mailed on February 28, 2006, in the above-referenced case. The Appellant respectfully requests consideration of this appeal by the Board of Patent Appeals and Interferences for allowance of the above-referenced patent application.

First-Class Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450 on:

October 30, 2006

Date of Deposit

Linda K. Brost

Name of Person Mailing Correspondence

*Linda K. Brost*  
 Signature

*October 30, 2006*  
 Date

## TABLE OF CONTENTS

	<u>Page</u>
I. REAL PARTY IN INTEREST .....	3
II. RELATED APPEALS AND INTERFERENCES .....	3
III. STATUS OF THE CLAIMS .....	3
IV. STATUS OF AMENDMENTS .....	3
V. SUMMARY OF THE CLAIMED SUBJECT MATTER .....	3
VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL .....	5
VII. ARGUMENT .....	5
VIII. CONCLUSION .....	10
IX. APPENDIX A .....	11
X. APPENDIX B: EVIDENCE .....	15
XI. APPENDIX C: RELATED PROCEEDINGS .....	16

## **I. REAL PARTY IN INTEREST**

The real party in interest is Aristocrat Technologies Australia Pty Ltd., a corporation of Australia, having a principle place of business at 71 Longueville Road, Lane Cove, Sydney, NSW 2060, Australia.

## **II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

## **III. STATUS OF THE CLAIMS**

Claims 1-8 are currently pending and stand rejected by the Examiner under the Final Rejection mailed on February 28, 2006.

## **IV. STATUS OF AMENDMENTS**

No amendment after final was filed. A copy of all claims on appeal is attached in Appendix A hereto.

## **V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

Claim 1 is directed to a gaming machine (Page 2, line 30 to page 3, line 10; Figure 1, reference numeral 10) that includes a display means (page 2, line 33; page 3, lines 13-15, and Figure 1, reference numeral 14) and a game controller (Figure 2, reference numeral 40; page 3, lines 9-22 and 23-28). The game controller is arranged to play a spinning reel game (page 4, lines 1 to 6 and lines 33-36) and to control the display to show the outcome of at least one random event (page 3, lines 13-15 and 23-28), and if a winning event occurs to award a prize.

The claimed gaming machine is limited to a spinning reel game which displays a plurality of spinning reels having a plurality of symbols on them (Figures 3 to 5). At least one of reels of the gaming machine has a plurality of scatter symbols on it which are “separated from each other on the reel by no more than one other symbol position” (ref. 52 of Figures 4 and 5).

In the event that the reels come to rest in a position in which more than one scatter symbol on one reel is displayed simultaneously with scatter symbols on any other reel “all the displayed scatter symbols contribute to a single paying combination of the scatter symbols” (page 4, lines 24 to 32).

Claim 2 includes the additional limitation that the display means is a video display unit and that the reels are video simulations. This feature is disclosed in the specification at page 2, lines 31 to 35.

Claim 3 includes the additional limitation that each of the reels has more than one occurrence of the scatter symbol. This feature is disclosed as reference numeral 52 in Figures 3 to 5 and associated written description.

Claim 4 includes the additional limitation that each reel has at least two scatter symbols. This feature is disclosed in Figure 3.

Claim 5 includes the additional limitation that scatter symbols are positioned so that up to three scatter symbols are able to be displayed together at any one time. These features are disclosed in Figure 3, which shows two scatter symbols together and as disclosed in the specification at page 2, lines 14 to 16, which discloses that a 5 reel video simulation may display 15 scatter symbols at one time.

Claim 6 is similarly worded to claim 1 with the exception that the claim refers to “special symbols” as opposed specifically to “scatter symbols.”

Claim 7 includes the additional limitation that there are more special symbols able to be displayed than there are reels in the spinning reel game. This feature is disclosed in the specification at page 4, lines 14 to 31, and page 5, lines 1 to 5.

Claim 8 an independent claim relating to a gaming machine having a display and a game controller arranged to control the display and play a game wherein the display is configured to display a plurality of columns of symbols, and the game is configured such that it is possible to obtain a winning combination made up of a greater number of certain symbols than there are columns displayed on the display (page 4, lines 24 to 31, and page 5, lines 4 to 5).

## **VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

The Examiner has rejected each of the claims under 35 USC § 103 for being obvious in view of “Slot Machines - A Pictorial Review – 1973, Bally Circus.”

## **VII. ARGUMENT**

The Examiner contends that the cited prior art discloses each of the features of the independent claims of the present application, but may fail to explicitly disclose:

“in respect to at least one of the reels, the set comprising a plurality of the scatter symbols, at least certain of the scatter symbols on said at least one reel being separated from each other on the reel by no more than one symbol, so that

when more than one scatter symbols of the at least one reel is displayed simultaneously with scatter symbols occurring on any of the other reels at any one time when the reels are in a rest condition, all the displayed scatter symbols contribute to a single paying combination of the scatter symbols."

We agree with the Examiner that the prior art does not disclose this feature. However, we refute the Examiner's contention that it is obvious to include it in light of "Slot Machines - A Pictorial Review - 1973, Bally Circus."

The Examiner contends that one having ordinary skill in the art would incorporate more than one scatter symbol on at least one reel in a gaming machine such as that disclosed in "Slot Machines - A Pictorial Review - 1973, Bally Circus" because to do so would increase the probability of a player winning a prize and therefore make the game highly desirable to players.

As noted in the citation, the "Bally Circus" gaming machine provides frequent wins by using "a host of interesting win features," one of which is the "Monkey Special" feature. We submit that there is no suggestion in the citation that the Monkey Special has some special adaptation (or that it could be adapted) to increase the frequency of wins over other scatter symbol games. Rather, the citation teaches that it is one of a range of special features that in combination contribute to the high rate of wins on the "Bally Circus."

Turning to the Monkey Special, which is the focus of the Examiner's arguments, this game feature uses monkey symbols as scatter symbols in a conventional scatter game in which a scatter win is played for the display of a

monkey symbol on each reel, irrespective of their positions in the reel display. There is no suggestion in the citation that the Monkey Special includes more than one Monkey symbol on a reel or that the Monkey Special awards a prize in the manner disclosed and claimed in the present application. In fact, the citation teaches that the Monkey Special has **only one** monkey symbol per reel.

Specifically, the citation teaches that there are 27 possible winning combinations in the Monkey Special feature which, in the case of the three reel gaming machine with three visible symbol positions per reel that is depicted, means that each reel of the gaming machine has 1 Monkey symbol which can appear in any one of the three symbol positions, resulting in  $3^3$  winning combinations. Any more than one monkey symbol per reel would result in more than 27 winning combinations.

Accordingly, we would submit that any inference by the Examiner that the citation teaches that more than one scatter symbol could be included on any one reel of a gaming machine to increase its payout frequency (or any other reason), is inconsistent with the teaching of the prior art.

Furthermore, we contend that the present invention goes well beyond merely adding more scatter symbols to some or all of the reels of a gaming machine to increase the frequency of scatter wins. In particular, the present invention proposes a system that includes the following:

1. First, it has a particular arrangement of symbols on its reel strips such that on at least one of the reels some of the scatter symbols are “separated from each other on the reel by at most one symbol”; and

2. Second, the game determines outcomes such that “when more than a minimum number of scatter symbols are displayed simultaneously at any one time when the reels are in a rest condition, all the displayed scatter symbols contribute to a single paying combination of the scatter symbols. [Emphasis added.]

The result of the particular arrangement of scatter symbols chosen by the inventors, and as highlighted by point 1 above, is that more than one scatter symbol on the same reel can be displayed at once. When this unique feature is combined with the new winning criterion of point 2, it produces a game having outcomes that are substantially different to from the prior art.

First, it may result in an increase in the frequency of scatter symbols wins (due to a possible increase in the number of scatter symbols on the reel strips). Second, the present invention opens up a new range of scatter symbol wins that have not previously existed, namely a type of scatter win in which the number of symbols contributing to the win exceed the number of reels, e.g. winning on up to 15-a-kind scatter symbols on a 5 reel game with 3 visible symbol positions. Last, it opens up winning combinations where vertically aligned symbols contribute in the same winning combination (i.e., symbols on the same strip) rather than different winning combinations.



The Examiner might contend that the feature of all displayed scatter symbols contributing to a prize award is a standard feature of scatter symbol games. However, such an argument is fallacious, as it ignores the fact that prior art games were not able to display more than one scatter symbol per reel, so the issue of how to deal with multiple scatter symbols displayed on the same reel was not considered. Moreover, it is noted that at the time of the citation, gaming machines such as the “Bally Circus” which had physically spinning reels did not have the ability to simultaneously count multiple scatter symbols on one reel.

It is submitted that the Examiner’s example, based on US 5,423,539, in which the 1-BAR symbol is replaced by a scatter symbol, is not illustrative of anything other than the fact that previous games included like symbols next to (or near) each other on a reel strip of a gaming machine. There is no teaching or suggestion in US 5,423,539 the game might be awarding wins that do not rely on a payline, or that more than one 1-BAR symbol on the same reel strip could contribute to the same winning combination. Moreover, there is no suggestion that a win might be awarded for a combination of symbols that includes more symbols than there are reels on the machine.

It is submitted that claims 2 to 5 and claim 7 are patentable at least due to their dependence on their respective independent claims.

Claims 3 to 5 further specify arrangement of scatter symbols that might be advantageous in certain embodiments of the present invention. These arrangements of scatter symbols, particularly that of claim 5, highlights the types

of outcomes that are possible with embodiments of the present invention, but are not possible with the prior art.

## VIII. CONCLUSION

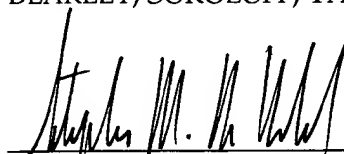
For the foregoing reasons, Appellant respectfully asserts that Claims 1-8 overcome the cited references and are therefore patentable. Those dependent claims not specifically addressed are deemed allowable in view of their dependency from an independent claim as argued above in addition to adding further limitations of their own. For the reasons presented herein, the removal of the present rejections and allowance of the present claims is respectfully requested.

### Charge Our Deposit Account

If there are any further charges not accounted for herein, please charge them to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP



Stephen M. De Klerk  
Reg. No. 46,503

Dated: October 30, 2006

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025  
(408) 720-8300

## IX. APPENDIX A

The claims on appeal including the amendment mailed by the Appellant on June 10, 2005 read as follows:

1. (Previously presented) A gaming machine comprising:

a display means; and

a game control means arranged to control images displayed on the display means, the game control means being arranged to play a spinning reel game wherein at least one random event is caused to be displayed on the display means and, if a predefined winning event occurs, the machine awards a prize;

wherein the display means displays a plurality of spinning reels, each reel carrying symbols from a set of symbols, one of the symbols of the set being a scatter symbol and, in respect of at least one of the reels, the set comprising a plurality of the scatter symbols, the positions of at least certain of the scatter symbols on the at least one reel being separated from each other on the reel by no more than one other symbol position so that, when more than one scatter symbol of the at least one reel is displayed simultaneously with scatter symbols occurring on any of the other reels at any one time when the reels are in a rest condition, all the displayed scatter symbols contribute to a single paying combination of the scatter symbols.

2. (Original) The gaming machine of claim 1 in which the display means is a video display unit and the display of the reels is constituted by a video simulation of spinning reels.

3. (Original) The gaming machine of claim 2 in which the set of symbols on each of the reels has more than one occurrence of the scatter symbol.

4. (Original) The gaming machine of claim 3 in which the set of symbols of each reel has at least two scatter symbols.

5. (Original) The gaming machine of claim 3 in which the scatter symbols are positioned on each reel such that up to three scatter symbols are able to be displayed together at any one time.

6. (Previously presented) A gaming machine comprising:

a display means; and

a game control means arranged to control images displayed on the display means, the game control means being arranged to play a spinning reel game wherein at least one random event is caused to be displayed on the display means and, if a predefined winning event occurs, the machine awards a prize;

wherein the display means displays a plurality of spinning reels, each reel carrying symbols from a set of symbols, one of the symbols of the set being a

special symbol and, in respect of at least one of the reels, the set comprising a plurality of the special symbols, the positions of at least certain of the special symbols on the at least one reel being separated from each other on the reel by no more than one other symbol position so that, when more than one of the special symbols of the at least one reel are displayed simultaneously with special symbols on any of the other reels when the reels are in a rest condition, all the displayed special symbols contribute to a single paying combination of the special symbols.

7. (Previously presented) The gaming machine of claim 6 in which there are more special symbols able to be displayed than there are reels constituting the spinning reel game.

8. (Previously presented) A gaming machine comprising:

a display; and

a game controller arranged to control images displayed on the display, the game controller being arranged to play a game wherein at least one random event is caused to be displayed on the display and, if a predefined winning event occurs, the machine awards a prize;

wherein the display displays a plurality of columns of symbols, the symbols being selected from a predetermined set of symbols, and, in respect of at least certain symbols of the set, it being possible to obtain a winning combination made

up of a greater number of the at least certain symbols than there are columns displayed on the display.

**X. APPENDIX B: EVIDENCE**

None.

## **XI. APPENDIX C: RELATED PROCEEDINGS**

None.